

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLAUDE O. POWELL, JR.,

Plaintiff,

-against-

NEW YORK CITY COMPTROLLER, et
al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/6/2023

1:23-cv-4616

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

This is one of five actions Powell has filed *pro se* before this Court. *See Powell v. N.Y.C. Comptroller*, 1:23-cv-4615; *Powell v. New York Housing Court*, 1:23-cv-4617; *Powell v. N.Y.C. Comptroller*, 1:23-cv-4618; *Powell v. N.Y.C. Comptroller*, 1:23-cv-10095. Each action appears to involve Powell’s arrest in July 2021 by the New York Police Department and/or related events.

A review of court records indicates that the complaint in this action was filed on June 1, 2023, and that no proof of service has been filed. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

In an Order dated October 6, 2023, the Court directed Plaintiff “to serve the defendants and file proof of service on the docket on or before November 3, 2023.” [ECF No. 3.] The Court warned that “[i]f service has not been made on or before that date, and if plaintiff fails to show cause, in writing, why service has not been made, the complaint will be dismissed for failure to

prosecute pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.” [ECF No. 3.] Plaintiff did not respond. Nothing was filed by November 3.


Given the Plaintiff’s *pro se* status, the Court thereafter issued a second Order to Show Cause on November 6, 2023. [See ECF No. 4.] The Court explained that Plaintiff would “be given one final opportunity to serve Defendants,” and directed Plaintiff to “serve Defendants and file proof of service on the docket on or before November 30, 2023.” [ECF No. 4.] The Court warned, in bold-faced and underlined text, that if “Plaintiff fails to show cause, in writing, why service has not been made, **the complaint will be dismissed for failure to prosecute pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.**” [ECF No. 4.] Plaintiff—again—did not take any action or file proof of service on the docket.

The Complaint was filed over six months ago. Despite repeated warnings, Plaintiff has not filed proof of service on the docket or otherwise responded to Orders of this Court. Accordingly, this action is dismissed under Federal Rules of Civil Procedure 4(m) and 41.

The Clerk of Court is respectfully requested to close this case. The Clerk is further requested to mail a copy of this Order to the *pro se* Plaintiff at the address of record.

SO ORDERED.

Date: December 6, 2023
New York, NY



MARY KAY VYSKOCIL
United States District Judge